

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BRIAN VINK,

Plaintiff,

v.

JOSEPH NATOLE, et al.,

Defendants.

CASE NO. 21-12804

DISTRICT JUDGE SHALINA D. KUMAR

MAGISTRATE JUDGE PATRICIA T. MORRIS

ORDER EXTENDING SUMMONS

This is a prisoner civil right case. Plaintiff filed suit on November 23, 2021 alleging Eighth Amendment violations under 42 U.S.C. 1983. He submitted a filing fee on March 9, 2022. On October 25, 2022, summons were issued to Plaintiff for the completion of service. As of today, the docket shows that service has not been attempted on any of the defendants. In the meantime, on December 28, 2022 Plaintiff filed an appeal challenging the District Court's referral of all pretrial matters to the Undersigned. The appeal was dismissed on February 6, 2023.

Rule 4 provides that "If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period."

A review of the Sixth Circuit's dismissal shows that Plaintiff's appeal was both untimely and that the Court lacked jurisdiction to hear the appeal because the District Court's order of reference was not a final, appealable order. (ECF Nos. 16-17). Notwithstanding, the time for Plaintiff to effect service will be extended 30 days to **March 10, 2023**.

Failure to effect service within 30 days may result in a recommendation for dismissal.

IT IS SO ORDERED.

Date: February 9, 2023

S/PATRICIA T. MORRIS

Patricia T. Morris

United States Magistrate Judge